

CGB CC-0366  
**Shainis & Heltzman, Chartered**

Counselors at Law

Suite 240  
1850 M Street, N.W.  
Washington, D.C. 20036

(202) 293-0011

Fax (202) 293-0810

e-mail: shainispeltzman@s-plaw.com

Aaron H. Shainis  
aaron@s-plaw.com

Lee J. Heltzman  
lee@s-plaw.com

ORIGINAL

Of Counsel

William H. BuRoss, III  
bill@s-plaw.com

Robert J. Keller  
bob@s-plaw.com

December 30, 2005

**VIA HAND DELIVERY**

Ms. Marlene H. Dortch, Esq.  
Office of the Secretary  
Federal Communications Commission  
Portals II – 12th Street Lobby  
Filing Counter – TW-A325  
445 12th Street, SW  
Washington, D.C. 20554

**RECEIVED**

DEC 30 2005

Federal Communications Commission  
Office of Secretary

**Re: Frazer Memorial Methodist Church  
Petition for Exemption from Closed Captioning Requirement**

Dear Ms. Dortch:

Frazer Memorial Methodist Church ("Frazer"), by its attorney, hereby seeks to be exempted from the Commission's closed captioning rules with respect to the broadcast of its Sunday Morning Worship Services on Station WSFA(TV), Channel 12, Montgomery, Alabama. In support of its request, Frazer submits the following:

**Introduction**

Frazer Memorial Methodist Church, located at 6000 Atlanta Highway in Montgomery, Alabama, is a United Methodist Church. The Church was founded in 1889 when a local preacher organized a Sunday School in a storeroom on Holt Street in Montgomery. In 1892 a minister was assigned to the group and the Church was organized under the name Holt Street Memorial Church. In 1937 the name of the Church was changed to Frazer Memorial Methodist Church in honor of a District Superintendent, Dr. John Frazer. The mission of the church is to win, disciple, and serve. It is the objective of the church to win people to Jesus Christ, disciple them in their faith and send them forth to serve in the community and the world.

Significant to the growth of the church is its Sunday Morning Worship Services, which are broadcast live at 9:30 A.M. on Sundays by Station WSFA(TV), Channel 12, Montgomery, Alabama. These services are one hour in duration. The broadcasts are produced by a limited

# Shainis & Heltzman, Chartered

Ms. Marlene H. Dortch, Esq.

December 30, 2005

Page 2

volunteer church staff. The services are viewed by persons of all ages who are unable to attend services in person and viewer response has been notable.

In enacting Section 713, Video Programming Accessibility, as an amendment to the Communications Act of 1934, Congress recognized that in some situations requiring that programming be closed captioned might prove to be burdensome on video programming providers, and it, therefore, authorized the Commission to adopt appropriate exemptions. The Commission, in turn, provided for exemptions in instances where imposing a captioning obligation would be burdensome.

For the reasons set forth below, Frazer seeks an exemption from the Commission's closed captioning rules for its live Sunday Morning Worship Services, pursuant to Section 79.1(f) of the Commission's rules, in that compliance with those rules would constitute an undue burden. Requiring the closed captioning of a live religious service would result in significant difficulty and expense to Frazer. Alternatively, Frazer requests that its Sunday Morning Worship Services be exempted from the Commission's closed captioning requirements because they are locally produced and are clearly of local public interest under Section 79.1(d)(8) of the Commission's rules.

## **Locally Produced and Distributed Programming**

The Commission intended that the exemption for locally produced and distributed non-news programming with limited repeat value be a narrowly focused exemption. It is intended to apply only to a limited class of truly local material, including, for example, local parades, local high school and other nonprofessional sports, live and unscripted local talk shows and community theater productions.<sup>1</sup> Clearly, the Sunday Morning Worship Services are locally created and produced and are not networked outside of the local Montgomery service area. In this respect they are local in the same way that a local parade or a community theater production is local. The services are produced on a low budget basis and are presented essentially as a "public service," especially to the aged, physically handicapped and other shut-ins who are unable to attend religious services in person. Requiring captioning could result in a significant economic burden such that the service conceivably would no longer be televised by WSFA.

## **Undue Burden Exemption**

In determining whether compliance with the Commission's closed captioning requirements would result in an undue economic burden, the Commission considers the

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<sup>1</sup> *Implementation of Section 305 of the Telecommunications Act of 1996 – Video Programming Accessibility ("Report and Order")*, 13 FCC Rcd 3272, 3348 (1997).

# **Shainis & Heltzman, Chartered**

Ms. Marlene H. Dortch, Esq.  
December 30, 2005  
Page 3

following: (1) the nature and cost of the closed captions for the programming; (2) the impact on the operation of the provider or program owner; (3) the financial resources of the provider or program owner; and (4) the type of operations of the provider or program owner.

## **Nature and Cost of Closed Captions**

In an effort to locate sources and prices applicable for providing closed captioning, Frazer contacted Prince Institute of Vocational Studies, Mediacomm, Caption Reporters and NCI - The Global Captioning Leader. Prince Institute quoted a price of \$400 per hour for work done by their students. Concerned that the cost would put an undue strain on the Church's budget, Frazer then contacted Mediacomm, which offered to provide closed captioning on a delayed basis (with the Church furnishing a tape within two to three days of the original service) at a cost of \$425 per week. However, having closed captioning provided on a delayed basis would destroy the immediacy of the broadcast. For example, when the Church celebrates Christmas and Easter services, as well as other significant days in the life of a church, it would be obviously detrimental were the services to be broadcast on a delayed basis to our audience. Frazer next contacted Caption Reporters and NCI. These companies quoted a price of between \$150 and \$195 per hour to simply close caption a one hour live broadcast; however, by the time additional costs were added in, such as the expense of a telephone line dedicated to delivering the programming and personnel costs to monitor the close captioning process, it is estimated that the expense would run in the area of between \$400 to \$450 per hour.

## **Impact on the Operation of the Program Provider**

Frazer has already incurred an existing expense to equip its own production facility as well as cover the weekly expense of televising its services on Station WSFA, at a cost of approximately \$900 per week. The additional cost of \$400 to \$450 per week, an increase in its weekly costs of approximately fifty percent, in order to provide closed captioning would constitute an undue burden on the Church and casts doubt as to whether the Services could continue to be televised by WSFA.

## **Financial Resources of the Program Provider**

Frazer, as a Church, operates on a tax-exempt basis. The main source of income for the Church is comprised of donations and tithes by its membership. The additional expense involved in providing closed captioning would obviously substantially adversely impact other areas of church service provided to its membership as well as the Church's ability to perform

# Shainis & Heltzman, Chartered

Ms. Marlene H. Dortch, Esq.

December 30, 2005

Page 4

charitable activities to the detriment of its membership as well as the local community. Frazer has requested that Station WSFA, the distributor of the Sunday Morning Worship Services, assume the expense of captioning the Services. However, the Station has declined to contribute towards the captioning expense.

## **Type of Operations of the Program Provider**

As noted, Frazer is a Church whose mission is to win, disciple, and service. It is a non-profit religious institution. The purpose of the Church is not to engage in broadcasting. Rather, it broadcasts its Sunday Morning Worship Services because of the local public interest in receiving access to those Worship Services.

# Shainis & Peltzman, Chartered

Ms. Marlene H. Dortch, Esq.  
December 30, 2005  
Page 5

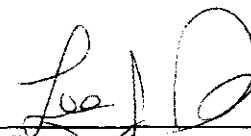
## Conclusion

Frazer believes that its Sunday Morning Worship Services truly constitute local public interest programming. The Worship Services are produced and distributed live locally and do not constitute news. Additionally, there are grounds for granting a waiver of the Commission's closed captioning requirements because requiring closed captioning in this case would constitute an undue burden and conceivably could hinder the continued ability of Sunday Morning Worship Services to be broadcast on WSFA. The costs of closed captioning the live Worship Services would be excessively high and have a detrimental impact on Frazer's charitable operations. Clearly, Frazer's type of operations and financial resources are different in kind and magnitude from those of a mainstream program provider. Because of the expense and difficulty in providing closed captions, the Commission, in the event it does not exempt the Sunday Morning Worship Services as locally produced and distributed programming under Section 79.1(d)(8) of the Commission's rules, should grant Frazer a waiver of Section 79.1(f) of the rules so that its Sunday Morning Worship Services may be received by those who are unable to attend church services in person.

Respectfully submitted,

**FRAZER MEMORIAL METHODIST CHURCH**

By: \_\_\_\_\_



Lee J. Peltzman  
Its Attorney  
Shainis & Peltzman, Chartered  
1850 M Street, N.W., Suite 240  
Washington, DC 20036

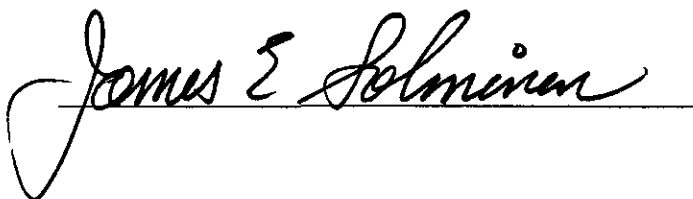
Date: December 30, 2005

## DECLARATION

I, James E. Salminen, am Coordinating Pastor for Ministries of Frazer Memorial Methodist Church in Montgomery, Alabama. Frazer Memorial Methodist Church is a United Methodist Church. At present, Station WSFA, Montgomery, Alabama broadcasts our 9:30 a.m. Sunday Morning Worship Service live. Requiring that our Sunday Morning Worship Services be closed-captioned would impose an undue burden on our Church. We do not have the technical capabilities or financial resources internally to close caption that programming. We did contact companies to see what the cost of closed captioning would be but they are higher than we can reasonably afford as a nonprofit church. We believe that the costs involved in close captioning a live church service would be unduly burdensome and would lead us to consider whether we should continue to allow WSFA to broadcast those services. We have requested that Station WSFA assume the cost of closed captioning the Sunday Morning Worship Services, however, that station courteously declined.

We believe that the Sunday Morning Worship Services should also be exempted because they are locally produced and distributed and are provided essentially as a "public service" to the viewing public who are unable to attend church services in person.

We respectfully request that the Federal Communications Commission exempt Frazer Memorial Methodist Church from closed captioning its Sunday Morning Worship Services.

A handwritten signature in black ink, reading "James E. Salminen", is written over a horizontal line. The signature is cursive and fluid.

Date: December 29, 2005